

IN THE UNITED STATES DISTRICT COURT
FOR THE SOUTHERN DISTRICT OF MISSISSIPPI
JACKSON DIVISION

ROBERT B. CHAMBERS

PLAINTIFF

VS.

CIVIL ACTION NO. 3:08CV636TSL-JCS

CLAIBORNE COUNTY, MISSISSIPPI

DEFENDANT

REPORT AND RECOMENDATION

This matter is before the undersigned upon the referral of United States District Judge Tom S. Lee. Plaintiff Robert B. Chambers, who is proceeding pro se, originally brought this § 1983 action against defendant Claiborne County, seeking to hold it liable for his allegedly wrongful arrest by Deputy Sheriff Carl Fleming in December 2006. On February 18, 2009, he filed a motion to file an amended complaint naming as defendants Carl Fleming and Gene Pickering. The motion also sought leave to add Melissa Jones as a plaintiff, although the proposed amended complaint contains only limited references to Jones and does not purport to seek relief on her behalf. Believing that plaintiff had filed an amended complaint, as opposed to a motion to amend the complaint, defendant Claiborne County filed its motion to strike or, in the alternative to dismiss. Having examined the parties' submissions, the undersigned makes the following recommendations:

1. Plaintiff's motion to amend his complaint should be granted to the extent that plaintiff seeks to file an amended complaint naming Gene Pickering and Carl Fleming as defendants. His motion should be denied insofar as he seeks to add Mellisa Jones as a plaintiff as the proposed amended complaint provides only limited reference to Jones and does not purport to seek any

relief on her behalf; and

2. Defendant's motion to strike (docket no. 11) should be denied. Defendant filed this motion after it erroneously construed plaintiff's motion to amend his complaint as an amended complaint; and

3. Defendant's motion to dismiss the amended complaint (docket number 12) should be denied. As set forth above, plaintiff will be allowed to file his amended complaint, but will not be permitted to add Jones as a plaintiff.

The parties are hereby notified that failure to file written objections to the proposed findings, conclusions and recommendations within ten (10) days after being served with a copy of the Report and Recommendation shall bar that party, except upon grounds of plain error, from attacking on appeal the unobjected-to proposed factual findings and legal conclusions accepted by the district court. Douglass v. United Services Automobile Ass'n, 79 F.3d 1415 (5th Cir. 1996)(en banc).

Respectfully submitted, this the 13th day of March, 2008.

/s/ James C. Sumner _____
UNITED STATES MAGISTRATE JUDGE